IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

MACON COUNTY INVESTMENTS, INC.; REACH ONE; TEACH ONE OF AMERICA, INC.,	)	
PLAINTIFFS,	)	
v.	)	**CIVIL ACTION NO.: 3:06-cv-224-WKW**
SHERIFF DAVID WARREN, in his official capacity as the SHERIFF OF MACON COUNTY, ALABAMA,	)	
DEFENDANT.	)	

DEFENDANT SHERIFF WARREN'S MOTION TO COMPEL

COMES NOW Sheriff Warren, the Defendant in the above-styled cause, by and through his counsel of record, and respectfully requests this Honorable Court to enter an order compelling Plaintiff Reach One Teach One of America, Inc., to respond to request numbers 7, 8, 9, and 10 of Defendant Sheriff Warren's Requests for Production pursuant to Rule 37(a)(3) of the *Federal Rules of Civil Procedure*. As grounds therefore, the Defendant would show unto the Court as follows:

1. This Court, in its Memorandum Opinion and Order dated June 26, 2006 (Doc. 19), ordered the parties to engage in expedited discovery. Specifically, all discovery is currently ordered to be completed by August 31, 2006. The parties were also instructed that "[e]ach party may serve a request for production of documents on each opposing party for response and delivery of the requested documents at least three days prior to scheduled depositions." (Doc. 19 at pg. 9.)

2. On or about July 21, 2006, Sheriff Warren served requests for production of documents upon the Plaintiff, Reach One Teach One of America, Inc. (hereinafter Reach One).

3. Sheriff Warren noticed the depositions of the corporate representatives of Reach One and Plaintiff Macon County Investments, Inc. ("MCII") to take place on August 18, 2006.

4. On the afternoon of August 16, 2006, less than two days before the scheduled depositions, Reach One responded to Defendant Sheriff Warren's requests for production. However, Plaintiff Reach One objected to producing documents responsive to requests for production numbers 7, 8, 9, and 10 on the grounds that the information was not required of other Class B bingo license applicants.

5. Reach One's objection is not a valid objection under the *Federal Rules of Civil Procedure*. Regardless of whether other Class B bingo license applicants were required to submit the information sought by the discovery requests, Sheriff Warren is entitled to the information pursuant to *Fed. R. Civ. P*. 26(b)(1).

6. *Fed. R. Civ. P.* 26(b)(1) provides that, "[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party." The documents sought in numbers 7, 8, 9 and 10 of Sheriff Warren's request are relevant to the claims and defenses of the parties. Amendment No. 744 of the Alabama Constitution only permits nonprofit organizations which have been in existence in the county for three years prior to submit an application for a Class B bingo license in Macon County. The documents sought in the request for production propounded by Sheriff Warren relate to whether or not Reach One is a legitimate nonprofit organization

in good standing in Macon County for three years prior to applying for a Class B bingo license.

7. Moreover, Defendant Sheriff Warren is entitled to the discovery sought because the responses to those discovery requests were necessary for counsel to prepare for the deposition of the Plaintiffs' corporate representatives and are needed in order to fully and properly prepare Sheriff Warren's defense in this case.

8. The Defendant has been prejudiced in the discovery process in this case by Reach One's failure to timely produce the requested documents and Defendant's ability to examine Reach One regarding these documents at the deposition of Reach One's corporate representative.

9. Finally, the undersigned counsel certifies that they have attempted in good faith to resolve these discovery disputes without success and with little or no response from Plaintiff Reach One. A copy of a letter to Plaintiffs' counsel dated August 18, 2006, is attached hereto as Exhibit 1.

WHEREFORE, above premises considered, Sheriff Warren respectfully requests this Court to enter an Order compelling Plaintiff Reach One Teach One of America, Inc., to produce documents responsive to Defendant's Requests for Production numbers 7, 8, 9, and 10 within 5 days and to reopen Reach One's deposition for the limited purpose of examining Reach One regarding the requested documents.

Respectfully submitted,

/s/ Fred D. Gray, Jr.
Fred D. Gray (GRA022)
Fred D. Gray, Jr. (GRA044)

Attorneys for Defendant, David Warren, Sheriff of Macon County, Alabama

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following counsel of record via the court's CM/ECF electronic filing system, on this the 20th day of August, 2006:

Kenneth L. Thomas, Esq.
Ramadanah M. Salaam, Esq.
Gary A. Grasso, Esq.
Adam R. Bowers, Esq.
John M. Bolton, III, Esq.
Charlanna Spencer, Esq.

/s/ Fred D. Gray, Jr.
OF COUNSEL